



**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF MEDICAL ASSISTANCE SERVICES**

APPEAL DECISION SUMMARY

APPEAL No: 2010-0210

DECISION DATE: March 2, 2010

OUTCOME: (check one)

☒ X SUSTAINED ☐ REVERSED ☐ REMANDED
☐ INVALID/FULL
☐ SUSTAINED and REMANDED
☐ REVERSED and REMANDED
☐ AGENCY ERROR/OTHER

ISSUE ON APPEAL: Excess resources –Aged, Blind or Disabled (ABD)

GENERAL RULE OF LAW: Standards ABD resource determination:

Conclusions of Law and Policy:

1. United States Code, 42 U.S.C. § 1396a(a)(17)(B) requires a state plan for medical assistance to include:
 reasonable standards . . . for determining eligibility for and the extent of medical assistance under the plan which . . . (B) provide for taking into account only such income and resources as are . . . available to the applicant or recipient.
2. The State plan must specify that . . . in determining financial eligibility of individuals, the agency will apply the cash assistance financial methodologies and requirements, unless the agency chooses to apply less restrictive allowable income and resource methodologies. If the agency chooses to apply less restrictive income and resource methodologies, the State plan must specify the less restrictive methodologies that will be used, and the eligibility groups to which the less restrictive methodologies will be applied. Code of Federal Regulations, 42 CFR §435.601, (f).
3. As a program based on need, Medicaid uses the value of a person's countable resources as one of two financial criteria in determining eligibility. The other criterion is income. Medicaid Manual, Volume XIII, M1110.001, A (p. 1).
4. Eligibility with respect to resources is a determination made for each calendar month, beginning with the third month prior to the month in which the application is

received. Resource eligibility exists for the full month if countable resources were at or below the applicable resource limit for any part of the month. Medicaid Manual, Volume XIII, M1110.001, B 1 (p. 1).

5. Resources are cash and any other personal or real property that an individual owns, or has the power to convert to cash and is not legally restricted from using for his support and maintenance. Medicaid Manual, Volume XIII, S1110.100, B 1 (p. 3).
6. Liquid resources are any resources in the form of cash or in any other form which can be converted to cash within 20 workdays. Absent evidence to the contrary, we assume that the following types of resources are liquid:
 - stocks, bonds , and mutual fund shares;
 - checking and savings account and time deposits;
 - United States Savings Bonds, Treasury bill, notes and bonds; and
 - mortgage and promissory notes.

Medicaid Manual, Volume XIII, S1110.300, A 1 (p. 8); S1110.305, B (p. 8).

7. The eligibility worker must verify the value of all countable, non-excluded resources. Medicaid Manual, Volume XIII, M0130.200, H (p. 8).
8. For initial applications, . . . always verify the value of resources for any month for which you must determine eligibility. If an applicant appeals a denial related to a particular resource, the evidence in the file must clearly establish the value of that resource. It must do so even if the issue under appeal is not the value itself (e.g., when the issue under appeal is ownership). This requirement ensures that at each level in the appeals process, the file contains complete documentation of the resource in question. You do not have to verify the value of resources for a given month if:
 - the resource is totally excluded, regardless of its value; or
 - the individual is ineligible for that month for a nonfinancial reason.

Medicaid Manual, Volume XIII, M1140.010, A 1 & 2 (p. 1).

9. Ownership of a dwelling occupied by the applicant as his home does not effect eligibility. An individual's home is property that serves as his or her principal place of residence. A home means the house and lot used as the principal residence. An individual's principal place of residence is the dwelling the individual considers his or her principal home and to which, if absent, he or she intends to return. Property ceases to be the principal place of residence, and is no longer excludable as the home, as of the date that the individual left it and does not intend to return to it. Medicaid Manual, Volume XIII, M1130.100, A 1, 2, 3; D 1 (pp. 1, 3).
10. The countable value of a bank account is the lower of the balance before income is added, or the ending balance minus any income added during the month. Funds cannot be both income and a resource in the same month. Income that has been added to a bank account during the month must be subtracted from the ending balance

to ensure that the income is not also counted as a resource. Medicaid Manual, Volume XIII, M1110.600, B 3 (p. 18); M1140.200, B 5 (p. 18).

11. The terms IRA and Keogh account refer to retirement plans. They do not identify the underlying investment vehicle, which can be a bank account, CD, mutual fund, etc. Develop IRA's and Keogh accounts in accordance with the section(s) that deal with the underlying investment vehicle. Medicaid Manual, Volume XIII, M1140.990, H (p. 41).
12. Retirement funds are annuities or work-related plans for providing income when employment ends (e.g., pension, disability, or retirement plans when administered by an employer or union). An individual retirement account (IRA) is another example. Medicaid Manual, Volume XIII, M1120.210, A 1 (p. 24).
13. The value of a retirement fund is the amount of money that an individual can currently withdraw from the fund. If there is a penalty for early withdrawal, the fund's value is the amount available to an individual after penalty deduction. Medicaid Manual, Volume XIII, M1120.210, A 3 (p. 24).
14. A retirement fund owned by an eligible individual is a resource if he/she has the option of withdrawing a lump sum even though he/she is not eligible for periodic payments. However, if the individual is eligible for periodic payments, the funds may not be a countable resource. Medicaid Manual, Volume XIII, M1120.210, B (p. 25).
15. The current market value of an automobile is the average trade-in value listed in the NADA Guide. Ownership of one motor vehicle does not affect eligibility. One automobile, regardless of the value, is excluded for the individual or a member of the individual's household. Medicaid Manual, Volume XIII, M1130.200, A 2 & 3 (p. 17).
16. The value of any asset that meets the definition of a resource counts against the applicable resource limit, unless otherwise excluded. Medicaid Manual, Volume XIII, S1110.200, (p. 6).
17. An applicant who reduces excess resources during the month of application or a subsequent month before action is taken on the application may become eligible in the month in which the value of his resources is reduced to, or below, the Medicaid resource limit. In order to reduce resources, the resources must actually be expended and the expenditure documented. (For example: a receipt, a canceled check, or a bank statement). When excess resources are reduced, entitlement to ongoing Medicaid may begin no earlier than the first day of the month in which the resources were reduced to the Medicaid limit. Medicaid Manual, Volume XIII, M1510.102, C (p. 8).

18. The resource limit for one person in the Categorically Needy, Categorically Needy Non-Money Payment, and Medically Needy covered groups is \$2,000. Medicaid Manual, Volume XIII, M1110.003, B 2 (p. 2).
19. An individual with countable resources in excess of the applicable limit is not eligible for Medicaid. Medicaid Manual, Volume XIII, M1110.003, B 1 (p. 2).

AGENCY DECISION: The hearing officer sustained the action of the agency, based upon the following:

The Appellant applied for ABD Medicaid. The Appellant owned a home, checking and savings accounts, a Roth IRA, a life insurance policy, and two vehicles. The local agency exempted the Appellant's home and one vehicle. The local agency determined that the Appellant's resources exceeded the limit for the ABD covered groups. Therefore, the local agency denied the Appellant's Medicaid eligibility.

APPLICABLE CITATIONS FOR ACTION:

United States Code

42 U.S.C. §1396a (a)(17)(B)

Code of Federal Regulations

42 CFR §435.601, (f)

Medicaid Manual, Volume XIII

M0130.200, H (p. 8)
M1110.001, A; B 1 (p. 1)
M1110.003, B 1 & 2 (p. 2)
M1110.100, B 1 (p. 3)
S1110.200 (p. 6)
S1110.300, A 1 (p. 8)
S1110.305, B 1 (p. 8)
M1110.400, A 1 (p. 10)
M1110.600, B 3 (p. 18)
M1120.210, A 1 & 3 (p. 24)
M1120.210, B (p. 25)
M1130.100, A 1, 2, 3; D 1 (pp. 1, 3)
M1130.200, A, 2 & 3 (p. 17)
M1130.503, D 1a; D 1b (p. 56)
M1140.010, A 2 (p. 1)
M1140.010, B (p. 2)
M1140.100, A (p. 6)
M1140.200, B 5 (p. 18)
M1140.990, H (p. 41)

M1510.102, C (p. 8)